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CALIFORNIA MEDICAL ASSISTANCE COMMISSION

State Capitol, Room 113
Sacramento, CA

Minutes of Meeting
September 25, 2008

COMMISSIONERS PRESENT
Cathie Bennett Warner, Chair
Michele Burton, M.P.H
Wilma Chan
Marvin Kropke
Vicki Marti
Nancy McFadden

COMMISSIONERS ABSENT

CMAC STAFF PRESENT
J. Keith Berger, Executive Director
Tacia Carroll
Paul Cerles
Nathan Davis
Denise DeTrano
Holland Golec
Mark Kloberdanz
Katie Knudson
Jenny Morgan
Becky Swol
Mike Tagupa
Mervin Tamai
Karen Thalhammer

EX-OFFICIO MEMBERS PRESENT
Nancy Hutchison, Department of Health Care Services
Randy Ward, Department of Finance

EX-OFFICIO MEMBERS ABSENT

I. Call to Order

The September 25, 2008 open session meeting of the California Medical Assistance Commission (CMAC) was called to order by Commissioner Nancy McFadden. A quorum was present.

II. Approval of Minutes

The September 11, 2008 meeting minutes were approved as prepared by CMAC staff.

III. Executive Director's Report

Keith Berger, Executive Director, began his report by welcoming Nancy Hutchison from the Department of Health Care Services (DHCS), who was sitting in for Cathy Halverson. He said that Nancy has attended some meetings in the past and is currently the Chief of the Safety Net Financing Division at DHCS, which as a part of its mission is responsible for administering the SPCP contracts that CMAC negotiates. So, she is familiar with the issues that CMAC faces.

Mr. Berger also welcomed Randy Ward from the Department of Finance (DOF), who has replaced John Fitzpatrick, and said he looks forward to seeing Mr. Ward at future CMAC meetings.

Mr. Berger informed the Commissioners that a budget was finally passed and the Governor signed it earlier in the week. It is CMAC's understanding that the delayed payments will be going out to Medi-Cal providers in the next day or so. The budget continues to include ongoing reductions in reimbursement rates for most Medi-Cal providers, including non-contract hospitals. Contracted hospitals continue to be exempt from the reductions.

At this time Mr. Berger asked both the Departments of Health Care Service (DHCS) and Finance (DOF) if they would provide CMAC with an overview of the Medi-Cal portion of the budget at the next meeting. They agreed to coordinate on an overview for the October 9, 2008 CMAC meeting.

Regarding the Private Hospital Supplemental Fund process, Mr. Berger said now that the budget has been signed, CMAC is moving forward with the Round 4A amendments. CMAC will have those amendments before the Commissioners for review and action at the next meeting.

Also moving forward, Mr. Berger informed the Commissioners, is the Distressed Hospital Fund. He noted that later in the meeting, CMAC Commissioners and staff would again be seeking public comment on the focus and process of this year's Distressed program.

Mr. Berger reported that the meeting notice inadvertently referred to the FY 2007-08 Distressed Hospital Fund process and focus. Fortunately, he said, the letter that went to the hospitals and the hospital associations correctly identified that CMAC is interested in comments on the current FY 2008-09 program. He noted that the reference has been corrected on CMAC's website and in the copies of the agenda that were available at the meeting.

He explained that hospitals and hospital associations were also invited to submit written comments in addition to or instead of appearing at the meeting. He stated that three

organizations had submitted written comments prior to the meeting. Copies of those comments were also available as handouts at the meeting along with the normal materials.

Mr. Berger noted that there are four contracts and amendments before the Commissioners for review and action in closed session today as well as continuing discussions and updates regarding current hospital negotiations and negotiation strategies.

IV. Department of Health Care Services (DHCS) Report

Nancy Hutchison, DHCS, reported to CMAC that DHCS continues to prepare to implement trailer bill language on the Governors' desk that reduces payments to non-Selective Provider Contracting Program (SPCP) hospitals. She explained that all non-contract hospitals, including small and rural hospitals, received a 10 percent payment reduction effective on July 1, 2008. Based on the proposed trailer bill language, she said, that payment reduction will be in effect from July 1, 2008 through September 30, 2008, except for small and rural hospitals which will continue to receive the 10 percent payment reduction until October 31, 2008. Beginning November 1, 2008, reimbursement rates to small and rural hospitals will be restored to 100 percent of cost.

Ms. Hutchison informed CMAC that effective October 1, 2008, certain non-contract hospitals (those that meet the criteria in the proposed trailer bill language) will be subject to a possible further rate reduction. Those hospitals will receive the lesser of 90 percent of cost or the regional average per diem SPCP contract rate minus five percent. She noted that there will be tertiary and non-tertiary rates for each of the three geographic areas utilized in CMAC's annual report to the Legislature; Southern California, San Francisco Bay Area, and all other. She said that there will be six rates that will become effective on October 1, 2008.

Ms. Hutchison indicated that the hospitals that are subject to the CMAC average rate minus five percent reduction are 1) all non-SPCP in closed Health Facility Planning Areas (HFPA); 2) non-SPCP hospitals in open HFPAs that were closed anytime after July 1, 2005, but are open on October 1, 2008; and 3) non-SPCP hospitals in HFPAs open on October 1, 2008, regardless of whether the area had ever been closed, if there are three or more hospitals with licensed general acute care beds. Ms. Hutchison noted that DHCS believes that there is one HFPA that meets the second criteria and eight HFPAs that meet the third, and that there are 96 hospitals impacted by all three criteria.

Exempt from the CMAC average minus five percent reduction, Ms. Hutchison summarized, are small and rural hospitals, regardless of whether the hospital is in an open or closed HFPA on October 1, 2008, or, when those areas became open or closed. She said that also exempt are non-SPCP hospitals in HFPAs open since July 1, 2005, if there are less than three hospitals with licensed general acute care beds in the HFPA.

Ms. Hutchison informed CMAC that DHCS has developed the appropriate regional average rates, including those for tertiary and non-tertiary hospitals, and is poised to post those rates on the DHCS website once the trailer bill is signed. They will also issue a provider bulletin with the information.

Regarding the budget, Ms. Hutchison said that it's effects on the Medi-Cal program are very complex and reiterated that DHCS and DOF would work together to provide CMAC a detailed overview of the changes in the near future.

V. New Business/Public Comments/Adjournment

At this time, Commissioner McFadden invited the public to comment on the Distressed Hospital Fund process on a first come, first serve basis.

Summaries of these public comments are attached. Copies of written comments received by CMAC are available upon request and may provide more detail regarding some of the statements made in public session.

Mr. Berger and the Commissioners said that they appreciated the written comments that were received as well as comments received at today's meeting from hospitals, hospital organizations and others regarding the Distressed Hospital Fund, and will try to incorporate those comments, as appropriately into this year's process.

There being no new business and no additional comments from the public, Chair Bennett Warner recessed the open session. Chair Bennett Warner opened the closed session and, after closed session items were addressed, adjourned the closed session, at which time the Commission reconvened in open session. Chair Bennett Warner announced that the Commission had taken action on hospital contracts and amendments in closed session. The open session was then adjourned.

Summary of Public Comments on Distressed Hospital Fund (DHF) Process
September 25, 2008 Commission Meeting

Catherine Douglas – Private Essential Access Community Hospitals, Inc (PEACH)

- Appreciates and fully supports CMAC's established policy of considering all hospitals that meet the statutory guidelines as potential recipients for distressed hospital funding, including private, community Disproportionate Share Hospital (DSH) hospitals.

- Encourages continued direction of funding to a small number of hospitals so dollars have the greatest impact.

- Appreciates CMAC's expedited process that tries to distribute DHF dollars quickly and encourages continuation of that approach with all future allocations.

- Urges CMAC to consider the significant and ongoing fiscal deterioration of the private hospital safety net by:
  - Significantly improving reimbursement rates for private DSH hospitals that are fiscally challenged.
  - Ensuring that all allotted Private Hospital Supplemental Funds, Distressed Funds and any other supplemental funds are fully expended before the close of each fiscal year.
  - Considering the private hospital safety net loss of $27 million of Private Hospital Supplemental Funds and the other budget cuts when CMAC hospital contract negotiations and DHF awards are determined in FY 2008-09.

Barbara Glaser – California Hospital Association

- Supports having the DHF available for hospitals having significant financial hardship., however, amount of funds available in the DHF are inadequate.

- More hospitals are becoming financially distressed each year, reflecting a structural deficiency in the financing of the Medi-Cal program.

- In order to maximize the effectiveness of the limited funding available to distressed hospitals, CMAC should continue to focus on a limited number of hospitals that demonstrate the highest need.

- CHA recognizes the DHF process is becoming increasingly difficult with a growing number of hospitals experiencing financial hardships, but does support the way CMAC conducts this program.

Russ Inglish – Integrated Healthcare Holdings, Inc.

- Wanted to provide some insight from a hospital operator's perspective on the three major statutory criteria examined during DHF selection process:
  - There should be substantial volume of Medi-Cal business at the facility, but the percentage of Medi-Cal volume is what drives financial performance.
  - The facility should be a critical component of the Medi-Cal delivery system, offering all available services to Medi-Cal recipients. CMAC needs to consider this criterion in light of the changes going on in the hospital's market and the surrounding community.
  - Determine the financial hardship of the facility. There are numerous factors that need to be considered in addition to just last year's bottom line.

Sherreta Lane – California Children's Hospital Association (CCHA)

- One of the underlying problems is inadequate Medi-Cal reimbursement, especially for safety-net hospitals, including children's hospitals.
- CCHA recognizes the challenges CMAC faces due to the small amount of dollars in the DHF compared to the statewide need, and encourages CMAC to consider hospitals providing significant Medi-Cal services.
- Urges CMAC to consider the critical role children's hospitals play in taking care of large volumes and percentages of Medi-Cal patients when making DHF distribution decisions.
- Since the Medi-Cal outpatient fee schedule tremendously underfunds the outpatient costs hospitals incurred, CCHA believes it is critical that the DHF funds be available to address both inpatient and outpatient shortfalls.

Richard Thomason – SEIU – United Healthcare Workers West

- Supports the CMAC process created around allocating DHF dollars, including focusing funds at a small number of hospitals so that the money can make a difference.
- Encourages focus on hospitals in Los Angeles and Orange counties due to the severe financial problems hospitals are struggling within that part of the state, particularly private DSH hospitals.
- Children's hospitals may be a lower priority for DHF funds due to their access to other public funds.